

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARDUNIVERSITY OF SOUTHERN
CALIFORNIA,

Opposer,

v.

UNIVERSITY OF SOUTH CAROLINA,

Applicant.

Opposition No. 91125615

Serial No. 75/358,031

Mark: SC (Stylized)

Filed: September 16, 1997

Published: May 18, 1999

**OPPOSER'S NOTICE OF RELIANCE NO. 26 UNDER 37 C.F.R. § 2.120(j) AND
TBMP § 704.09 OFFERING INTO EVIDENCE DISCOVERY DEPOSITIONS**

Pursuant to 37 C.F.R. § 2.120(j) and TBMP § 704.09, Opposer, the University of Southern California, ("Opposer") submits this Notice of Reliance on additional discovery deposition testimony of Dan Stimmler, which Opposer believes should be considered by the Board so as to clarify the record and make not misleading the testimony from Mr. Stimmler's deposition that was previously offered by Applicant, the University of South Carolina, ("Applicant") in Applicant's Notice of Reliance No. 27.

(4) If only part of a discovery deposition is submitted and made part of the record by a party, an adverse party may introduce under a notice of reliance any other part of the deposition which should in fairness be considered so as to make not misleading what was offered by the submitting party.

37 C.F.R. § 2.120(j)(4).

Attached as Exhibits 420-424 are true and correct copies of the following portions from the discovery deposition of Dan Stimmler, which supplement those portions previously offered



05-12-2006

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #34

by Applicant. An explanation as to why Opposer is relying in the additional testimony follows.

Accordingly, the requirements of 37 C.F.R. § 2.120(j) and TBMP § 704.09 are satisfied.

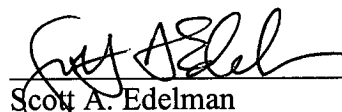
Opposer's Ex. No.	Description	Explanation of Relevance
420	Stimmler Discovery Depo. 99:22-101:12.	Applicant's Exhibit 443 notes that Mr. Stimmler could not recall any specific instance of actual confusion on the mark at issue. However, he did testify that he was generally aware in the past of instances of actual confusion with Carolina and could not recall whether it was this specific mark or not.
421	Stimmler Discovery Depo. 33:16-34:6; 36:12-20; 36:25-37:21.	Applicant's Exhibit 430 discusses the fact that California has not sold product branded with other institutions through the www.uscbookstore.com website. This may leave the impression that California never sells products for other schools. This additional testimony clarifies the record on that point.
422	Stimmler Discovery Depo. 41:1-44:25.	Applicant's Exhibits 435-436 suggest a limited view of California's potential customers. During the same deposition, Mr. Stimmler explained that a wide variety of retailers (including Footlocker, Wal-Mart, Target, and K-Mart) are competing with the University of Southern California Bookstores for the same customers in connection with the sale of merchandise bearing California's marks.
423	Stimmler Discovery Depo. 32:4-7; 48:7-50:5; 78:21-79:4; 79:14-79:18.	Applicant's Exhibit 432 discusses sales of "Team Trojan" in a context that might suggest that "Team Trojan" referred to all merchandise branded by California. In fact, "Team Trojan" is one specific brand controlled directly by California which exists in addition to all of the licensees who sell other merchandise branded by California. This additional testimony addresses the description of "Team Trojan."

Opposer's Ex. No.	Description	Explanation of Relevance
424	Stimmler Discovery Depo. 16:12-17; 27:11-30:24.	Out of context, Applicant's Exhibit 438 might suggest that that the University of Southern California Bookstore consists of a single retail location. This additional testimony addresses the variety of locations (including mall locations miles from the campus) maintained by the University of Southern California Bookstore

Dated: May 11, 2006

Respectfully submitted,

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ORIGINAL

DEPOSITION OF DANIEL R. STIMMLER

Los Angeles, California

Wednesday, August 17, 2005

[Excerpt]

Reported by:

LINDA A. BANKEY

CSR No. 7993

JOB No. 913006

Opposition No. 91125615
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Univ. South Carolina

1 BY MR. McELWAIN:

2 Q Are you aware that ESPN SportsCenter uses
3 the letters "SC"?

4 A I am.

03:40 5 Q What do you think about that?

6 A I think they're trying to copy us.

7 Q Do you know whether a cease and desist
8 letter has been sent to ESPN?

9 A I don't know.

03:40 10 Q Are you aware of any incidents of actual
11 confusion between a trademark owned by the University
12 of Southern California and the University of
13 South Carolina's "SC" baseball mark shown in
14 Exhibit 10?

03:41 15 A No.

16 MR. McELWAIN: I have no further questions.

17 MR. ADLER: Let's go off the record for a
18 minute.

19 (Recess.)

03:42 20 EXAMINATION

21 BY MR. ADLER:

03:42 22 Q Just a minute ago in response to
23 Mr. McElwaine, you said that you were not -- you
24 didn't specifically recall any confusion with the
25 logo shown on Exhibit 10; correct?

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Univ. Southern California v.
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1 A Correct.

2 Q Are you aware of any confusion -- any actual
3 confusion with University of South Carolina
4 merchandise?

03:42 5 A Yes.

6 Q And how have you become aware of such
7 confusion?

8 A In my position at the bookstore, we have
9 received University of South Carolina merchandise as
03:43 10 samples to approve and even in some cases as product
11 fulfillment from vendors, which has been a mistake
12 which, you know, was supposed to be University of
13 Southern California product.

14 And in my personal life, my family has given
03:43 15 me University of South Carolina merchandise before as
16 a gift thinking that it commemorated the University
17 of Southern California.

18 Q And in particular on the "SC" logo, do you
19 know whether any of the merchandise that you're
03:43 20 talking about for actual confusion -- can you say
21 that it was not that "SC" logo?

22 MR. McELWAIN: Object to the form. I think
23 it's also vague and ambiguous.

24 MR. ADLER: Let me see if I can ask him a
03:43 25 better way.

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MR. McELWAIN: It's tough.

BY MR. ADLER:

Q You have received material with
South Carolina logos; correct?

A Yes.

Q Do you know whether or not any of that
material was the logo on Exhibit 10?

A I do not know.

Q So it could have been the material on
Exhibit 10?

MR. McELWAIN: Object to the form.

THE WITNESS: Correct.

MR. ADLER: All right. No further
questions.

MR. McELWAIN: Nothing.

MR. ADLER: Okay. Off the record.
(Discussion off the record.)

MR. ADLER: We have gone off the record, and
we've agreed that the original will come to counsel
for the witness, and we will provide corrections and
signatures under the TTAB rules.

MR. McELWAIN: So agreed.

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1 Q And do you know how to spell "Dougherty"?

2 A D-o-u-g-h-e-r-t-y.

3 Q Do you know what Mr. Eskenazi's position is
4 within Athletics?

01:50 5 A I believe he's associate -- an associate
6 director of athletics in charge of marketing.

7 Q What about Carol Dougherty? Do you know her
8 position?

9 A Carol Dougherty is the senior associate
01:50 10 athletic director. I believe she has all of women's
11 sports, and she has a large amount of the business
12 responsibility for the department as well.

13 Q Do you sell any University of South Carolina
14 products or branded products at the USC Bookstores?

01:51 15 A No.

16 Q Do you sell any other universities' products?

17 A Occasionally we do.

18 Q Okay. And whose -- what universities?

19 A For some of the larger home games when we
01:51 20 have a strong branded school that we're playing such
21 as Notre Dame or UCLA, we'll carry their products.

22 Q And how long do you carry those products
23 for?

24 A We typically will carry them as long as we
01:51 25 have to sell them.

1 Q Do you usually start a week or so before the
2 game and then until inventory runs out?

3 A We typically plan to have them there the
4 week before the game, and we only order the amount
01:52 5 that we speculate we'll sell by the end of the game,
6 and then we get out of the business.

7 Q Does that make up a large percentage of the
8 USC Bookstores' sales?

9 A No, it does not.

01:52 10 MR. ADLER: I'll represent for the record
11 that Jose Eskenazi's title is assistant athletic
12 director of marketing.

13 MR. McELWAINE: Thank you.

14 Before you close out, can you spell it just
01:52 15 in case I got it wrong?

16 MR. ADLER: Sure. It's E-s-k-e-n-a-z-i.

17 BY MR. McELWAINE:

18 Q Mr. Stimmler, can you turn to the page -- I
19 think it's the third page of Exhibit 2 that says --
01:52 20 states "Apparel" on it? Do you see that?

21 A Yes, I do see that.

22 Q Are you familiar with this page of your Web
23 site?

24 A Yes.

01:53 25 Q Okay. Do you believe it's clear that this

1 with the Trojan's trademark?

2 A Yes, it is.

3 Q And it mentions the name of the University
4 of Southern California?

01:54 5 A Yes.

6 Q Flip to the next page.

7 Do you recognize this page?

8 A I do.

9 Q Can you tell me what it is?

01:54 10 A It's the page that represents some of the
11 hats that we sell on-line.

12 Q Do you sell any other universities' hats
13 on-line?

14 A Not on this page, no.

01:54 15 Q Do you believe that you have in the past
16 sold another university's hat on-line?

17 A Yes.

18 Q Okay. And whose would that have been?

19 A It could have been a number of schools' hats
01:54 20 that we would have sold on-line.

21 Q And would that have fallen under the
22 category that you described a little while ago, if it
23 was a very well-known team?

24 A Correct.

01:55 25 Q Okay. Tell me some of the -- just what you

1 can remember -- some of those well-known teams that
2 you have offered products for sale.

3 A They would include Penn State, Miami,
4 Florida State, Nebraska, Texas, Tennessee, LSU.

01:55 5 Q And you've sold product with those schools'
6 trademarks on-line; is that right?

7 A Correct.

8 Q Is this Web site clearly marked with the
9 Trojan's trademark?

01:55 10 A Yes, it is.

11 Q And as well, it's marked with the words
12 "University of Southern California"?

13 A It is marked with the words "University of
14 Southern California."

01:56 15 I want to be really clear about when you say
16 the "Trojan trademark."

17 Q Uh-huh.

18 A I'm not in a position to tell you if the
19 Trojan image on the page is actually a Trojan

01:56 20 trademark or if the head as its trademark would be a
21 trademark --

22 Q Right.

23 A -- or if the font in Trojan and the way that
24 it's written is actually trademarked.

01:56 25 Q But it does have the words

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CSR No. 7993

JOB No. 913006

Opposition No. 91125615
Univ. Southern California v.
Univ. South Carolina

1 Q Who are the USC Bookstores' top three
2 competitors?

3 MR. ADLER: Objection. Vague and ambiguous.

4 THE WITNESS: For what merchandise?

02:00 5 BY MR. McELWAIN:

6 Q For clothing.

7 MR. ADLER: The same objection.

8 THE WITNESS: I'd have to look on-line to
9 tell you that.

02:00 10 BY MR. McELWAIN:

11 Q Well, can you -- why would you have to look
12 on-line?

13 A Well, if you're looking for an on-line
14 competitor, there's a couple of them, but I'm not
02:01 15 familiar with their names.

16 Q Okay.

17 A If you're talking about brick-and-mortar --

18 Q Yeah, let's take it one-by-one.

19 How about brick-and-mortar? Who are your
02:01 20 biggest competitors -- three biggest competitors from
21 a brick-and-mortar standpoint?

22 MR. ADLER: Objection. Vague and
23 ambiguous.

24 THE WITNESS: Probably Foot Locker,
02:01 25 department stores in general and maybe some of the

1 big box retailers.

2 BY MR. McELWAIN:

3 Q Why do you consider Foot Locker a
4 competitor?

02:01 5 A Foot Locker does a good job of keeping the
6 regional schools' merchandise in their store.

7 Q And what types of merchandise would
8 Foot Locker keep that would be competitive to what
9 the University Bookstore sells?

02:01 10 A I would consider any USC apparel that
11 Foot Locker sells as being in competition for us.

12 Q But with Foot Locker, would it mainly be
13 hats and T-shirts?

14 A No, I have seen Foot Locker carry everything
02:02 15 from jackets to sweat shirts to shorts.

16 Q Tell me about department stores. How -- how
17 do you consider department stores to be a competitor?

18 A I have seen department stores sell elements
19 of the entire Nike line through their retail
02:02 20 locations.

21 Q And when you say "elements of the Nike
22 line," would that be for non-University of
23 Southern California-branded products?

24 A No, I'm -- the line I'm mentioning is the
02:02 25 USC Nike line that I see them carry.

1 Q All right. And can you tell me what that
2 is?

3 A Nike produces a line of USC clothing as the
4 official sponsor of the USC Athletic Department, and
02:03 5 some of the product is released to retail. We will
6 carry it, and they -- also the department stores will
7 carry it.

8 Q Can you describe to me what the products are
9 in the Nike line?

02:03 10 A The Nike line can range anywhere from
11 replica football/basketball jerseys to authentic
12 football jerseys to T-shirts, hats, sweat shirts,
13 sweat suits, women's clothing, socks and shoes.

14 Q And has Nike licensed a number of
02:03 15 different trademarks from the University of
16 Southern California?

17 A Yes, they have.

18 Q It's not just athletics?

19 A It is only athletics.

02:03 20 Q Only athletics?

21 A Correct.

22 Q So it would not include the word "Trojans"?

23 A It can include the word "Trojans," but the
24 style that they use is the athletic style of
02:03 25 "Trojans."

1 Q And when you say "athletic style Trojans,"
2 can you describe that to me?

3 A Typically it's the script "Trojans" that you
4 find over the SC interlock.

02:04 5 Q You also said that you considered big box
6 retailers to be a competitor.

7 Why do you consider them to be a competitor?

8 A I consider the big box retailers to be a
9 competitor because they'll typically take a T-shirt
02:04 10 and a hat concept and bring in a subquality
11 merchandise level that is undercutting the price
12 points of where we are.

13 Q Can you give me an example of a big box
14 retailer?

02:04 15 A I would consider a big box retailer to be a
16 Wal-Mart, Target, K-Mart.

17 Q Do you know whether those products are
18 officially licensed products?

19 A I would hope and assume that they would be
02:04 20 officially licensed products.

21 Q Do you believe that your customers are
22 alike? Scratch that.

23 Do you believe that you have -- are after
24 the same customers that Foot Locker is after?

02:05 25 A I do.

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1 to any of the athletic apparel, paper napkins, cups,
2 bumper hitches, stickers. Anything that you would
3 typically see at a tailgate.

4 Q Tell me what is "Team Trojan."

01:48 5 A "Team Trojan" is a brand that is completely
6 created and sourced by the University Bookstore in
7 partnership with the USC Athletic Department.

8 Q What cooperation or input does the
9 Athletic Department have?

01:49 10 A The Athletic Department grants the exclusive
11 rights to the SC interlock and Athletic Department
12 marks to us and also manage the complete marketing of
13 the "Team Trojan" brand.

14 Q Who at the Athletic Department does that?

01:49 15 A I think they're all involved in it.

16 Q The entire Athletic Department?

17 A Correct.

18 Q Is there any particular person that you have
19 worked with at Athletics more than others?

01:49 20 A Yes.

21 Q Okay. And who would that be?

22 A I would say Jose Eskenazi.

23 Q Can you spell that last name?

24 A I believe it's E-s-k-e-n-a-z-i. And Carol
01:50 25 Dougherty.

1 the two --

2 THE WITNESS: The Team Trojan.

3 MR. ADLER: -- the Team Trojan. Those are
4 the two that are authorized for that specific format.

02:09 5 MR. McELWAIN: Well, I guess I'm a little
6 confused.

7 Q Tell me a little bit more about the
8 Team Trojan licensing program then.

9 Is it only with Nike?

02:10 10 A No. Athletics controls who gets to use the
11 exclusive athletic marks. They have granted that
12 approval to Nike and to Team Trojan. Team Trojan is
13 a brand similar to Nike. If you look on the label,
14 if you look on the hang tag, it's Team Trojan. So
02:10 15 they use the same marks in their merchandise
16 creation.

17 Q What other marks does Team Trojan utilize,
18 if you know?

19 A They can use any marks that they want, but
02:10 20 we keep Team Trojan typically for the athletic marks.

21 Q Why was Team Trojan developed by the
22 University of Southern California as a program?

23 A Team Trojan was developed because there was
24 a demand for additional products that could not be
02:10 25 filled by Nike, and there was opportunity to do

1 additional products that weren't included by Nike.

2 Q Why not license it to a third party? Why
3 did the University of Southern California decide to
4 sort of put together its own brand?

02:11 5 A I'd say there's two reasons, to make sure
6 that we can control the quality of product that's
7 developed and because we had greater access to
8 manufacturing and design than any other brand would.

02:11 9 Q Explain that. Why would you have greater
10 access?

11 A If you reviewed what other brands in the
12 emblematic market were able to do versus what we are
13 able to do, we have greater flexibility in -- in the
14 fact that we're completely vertical from a cotton
02:12 15 ball to end product. So we can change anything we
16 want.

17 Q I'm still not sure I understand that.

18 A Are you familiar with Russell Athletic and
19 Champion?

02:12 20 Q Yeah.

21 A They have very distinct styles, and they
22 have very distinct focuses on what they do and what
23 they do well.

24 We wanted to have more flexibility to be
02:12 25 able to do anything in the world that we wanted to,

02:12

1 and because of our connections overseas and our
2 design connections, we are able to do that ourselves.
3 So by partnering with one other brand, you would take
4 on their distinct style or focus, and we wanted more
5 flexibility than that.

02:13

6 Q The revenue made by the USC Bookstore --
7 does that go back into the bookstore, or does that go
8 to the university?

9 A The University Bookstore works on a
10 zero-based budget. So we end up with a zero on our
11 bottom line at the end of the year.

12 Q Meaning that you're paying something to the
13 University of Southern California, I assume?

02:13

14 A We pay indirect costs to the University of
15 Southern California to operate the stores, yes.

16 Q In general, who are your customers?

17 MR. ADLER: Is this a good time for a break?

18 MR. McELWAIN: Sure. Let's get an answer
19 to the question --

02:13

20 MR. ADLER: Oh, sure.

21 MR. McELWAIN: -- and then we'll --

22 MR. ADLER: I just sensed you were moving on
23 to a new topic.

02:13

24 THE WITNESS: The University Bookstore
25 customers are our students, faculty, staff, alumni

1 A No.

2 Q Okay. Do they private label shirts through
3 Team Trojan's program?

4 A Yes.

03:04 5 Q Okay. Does the University of
6 Southern California manufacture any hats?

7 A No.

8 Q Does the University of Southern California
9 manufacture any shorts?

03:04 10 A No.

11 Q Does the University of Southern California
12 manufacture any baseball uniforms?

13 A No.

14 Q Does the University of Southern California
03:05 15 place either USC -- does the University of
16 Southern California place the words or the letters
17 "USC" on the Team Trojan labels?

18 MR. ADLER: Objection. Vague and ambiguous.

19 THE WITNESS: We try not to.

03:05 20 BY MR. McELWAIN:

21 Q Okay. Does it -- what does a Team Trojan
22 label look like?

23 A The Team Trojan label has the SC interlock
24 with the Trojans over it and the words "Team Trojan"
03:05 25 on it.



1 Q So it appears that the manufacturer of that
2 product is Team Trojan; correct?

3 A Correct. Team Trojan coordinates the
4 manufacturing and contracts the manufacturing.

03:05 5 Q Is Team Trojan a separate entity?

6 A No.

7 Q Do you know anything about the Athletic
8 Department -- the Athletic Department's licensing of
9 marks as opposed to academic or the regular
03:06 10 university licensing of marks?

11 MR. ADLER: Objection. Vague and ambiguous.

12 THE WITNESS: I know some, yes.

13 BY MR. McELWAINE:

14 Q Okay. What do you know about the Athletics'
03:06 15 licensing program?

16 A Maybe I can try to clarify a little bit of
17 it. All licensing is run through the Trademark and
18 Licensing Department at USC that Liz Kennedy runs.

19 Q Right.

03:06 20 A Athletics has an involvement of the approval
21 of athletic marks, but they don't run their own
22 licensing program.

23 Q Okay. Do you know anything more about the
24 approval process that Athletics undertakes?

03:07 25 A Are you asking me what criteria they use in

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1 Q Okay. And which jobs would that have been
2 part of your -- your duties?

3 A That would be part of the duties of all the
4 jobs as well.

01:27 5 Q What is the Trojan Bookstores?

6 A Trojan Bookstores is a legacy name of the
7 University Bookstores.

8 Q And so at one point, was the bookstore known
9 as the "Trojan Bookstore," something to that effect?

01:27 10 A I think it still is to some people. It's
11 been a bunch of different names at different times.

12 Q Okay. What does the name on the bookstore
13 currently say?

14 MR. ADLER: Objection. Vague and ambiguous.

01:27 15 There are, what, four locations? Five permanent
16 locations?

17 THE WITNESS: There's a lot of locations.

18 BY MR. McELWAINE:

01:27 19 Q Okay. Well, why don't -- is there a main
20 location?

21 A Yes.

22 Q Okay. And what's the -- the name of the
23 main location?

01:27 24 A The building name is Pertusati University
25 Bookstore.

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1 A The mission of the USC Bookstore is to
2 provide merchandise and services that help the
3 academic mission of the university.

01:41 4 Q Do you consider the Trojan Bookstore or the
5 University -- excuse me -- USC Bookstore to be the
6 official source for USC clothing and gifts?

7 A Yes.

8 Q And is the USC merchandise marketed to fans
9 of the University of Southern California?

01:41 10 A Yes, it is.

11 Q We have been talking about some different
12 locations.

13 If you could, turn to the second page of
14 that printout.

01:42 15 Is that a list of all the different
16 locations of the University of Southern California's
17 bookstores?

18 A It's missing one location.

19 Q Okay. And what location is that?

01:42 20 A It is our Library Store that is at
21 University Village.

22 Q What does the Library Store sell?

23 A It sells men's- and women's-branded apparel.

24 Q Is it in the library?

01:42 25 A No, it is not.

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1

Q Why does it have the name "Library Store"?

2

A The team who put together the marketing plan for it selected the name "Library" for many reasons.

3

Q Does the Web site contain different products

01:43

4

than what is sold at your brick-and-mortar locations?

5

A Sometimes.

6

Q Can you give me a feeling or a degree for

7

how different the products are on-line as opposed to

8

actually in the retail outlets?

01:43

9

A I would say on average there's a 10 percent

10

variance of what's on-line versus what's in our

11

brick-and-mortar stores.

12

Q And which way? More on-line or more in the

13

stores?

01:43

14

A I would categorize it as different.

15

Q Okay. Explain that to me. I'm a little

16

lost.

17

A In creating a different store in different

18

locations, you want to create different stories so

19

that you as a customer will visit a location in any

01:43

20

one of our areas, but you'll also be enticed to visit

21

on-line to see what else is on there. So it's a

22

philosophy adopted to keep the customer interested in

23

each of your locations.

24

Q Interesting. So is there a different story

01:44

25

1 or feel for each one of these different locations
2 that you have?

3 A Yes.

01:44 4 Q Okay. So tell me about the University Park
5 Campus then. What is -- what is that store like?

6 A The University Park Campus store is the
7 largest store. So it encompasses the greatest
8 selection of USC product.

01:44 9 Q And is that in a particular part of campus?
10 Tell me a little bit more about that.

11 A That location is the Pertusati University
12 Bookstore location that we discussed in the center of
13 campus.

14 Q Okay. Got you.

01:44 15 What about the USC Dental Bookstore? Tell
16 me about that one.

17 A The USC Dental Bookstore is a small store
18 located in the basement of the Dental School. It's
19 primary focus on merchandise is USC dental and USC
01:45 20 dental hygiene merchandise. We also carry some
21 generic USC merchandise there as well.

22 Q And what about the University Health Science
23 Bookstore? Tell me about that one.

01:45 24 A The University Health Science Bookstore
25 carries Keck School of Medicine merchandise,

1 Occupational Therapy, Physical Therapy, Pharmacy and
2 a mix of generic USC merchandise as well. I'm only
3 covering the general merchandise in each location.

4 Q Are there textbooks?

01:45 5 A Correct.

6 Q Okay.

7 A There's textbooks, technical books. There's
8 technical professional supplies, school supplies. In
9 some of the areas, there's concession food-type
01:45 10 items. It really ranges to whatever the needs are
11 for that campus.

12 Q And what about the USC Collections in
13 South Coast Plaza? Tell me about that.

14 A That is a store located in South Coast Plaza
01:46 15 that carries only USC merchandise.

16 Q And tell me what South Coast Plaza is.

17 A South Coast Plaza is one of the larger
18 regional malls in the area. It's down in
19 Orange County.

01:46 20 Q And lastly, tell me a little bit more about
21 the Library Store at the University Village.

22 A The Library Store at the University Village
23 is located across from our campus. It is all brand
24 name apparel, nothing USC.


01:46 25 Q And why did you decide not to have any

Opposition No. 91125615

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I, Mandy Robertson-Bora, hereby certify that I am depositing the foregoing **OPPOSER'S NOTICE OF RELIANCE NO. 26 UNDER 37 C.F.R. § 2.120(j) AND TBMP § 704.09 OFFERING INTO EVIDENCE DISCOVERY DEPOSITIONS** with the United States Postal Service as Express Mail, postage pre-paid, on May 11, 2006, in an envelope addressed to

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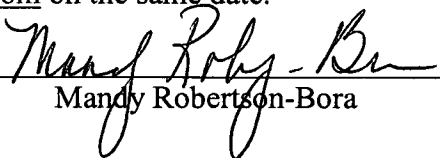
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A copy is being sent by e-mail to JCM@nmrs.com on the same date.



Mandy Robertson-Bora